

Ordinance No. 121925

Council Bill No. 115367

AN ORDINANCE relating to enforcement of Seattle Municipal Code Title 15, the Street and Sidewalk Use Code, expanding the list of violations of Title 15 to be enforced under the citation or criminal provisions set forth in Chapter 15.91, increasing penalties for the first citation, enhancing the penalty for peak period violations enforced under the provisions set forth in Chapter 15.90, amending Chapters 15.90 and 15.91 of the Seattle Municipal Code, and adopting a new Street Use Permit Fee Schedule.

CF No. _____

Date Introduced:	SEP - 6 2005	
Date 1st Referred:	SEP - 6 2005	To: (committee) TRANSPORTATION
Date Re - Referred:		To: (committee)
Date Re - Referred:		To: (committee)
Date of Final Passage:	9-19-05	Full Council Vote: 7-0
Date Presented to Mayor:	9-20-0	Date Approved: 9/22/05
Date Returned to City Clerk:		Date Published: 7/22/05
		T.O. <input checked="" type="checkbox"/> F.T. <input checked="" type="checkbox"/>
Date Vetoed by Mayor:		Date Veto Published:
Date Passed Over Veto:		Veto Sustained:

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: CONLIN

Richard Conlin
Councilmember

Committee Action:

9/13/05 - 2-yes, 1 abstention - Ramussen
Conlin, Gaddes

9-19-05 Passed 7-0 (Absent: Steenbrueck;
Excused: Compton)

This file is complete and ready for presentation to Full Council.

Committee: RC 9/13/05
(initial/date)

Law Department
Law Dept. Review

OMP
Review

City Clerk
Review

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ORDINANCE 121925

AN ORDINANCE relating to enforcement of Seattle Municipal Code Title 15, the Street and Sidewalk Use Code, expanding the list of violations of Title 15 to be enforced under the citation or criminal provisions set forth in Chapter 15.91, increasing penalties for the first citation, enhancing the penalty for peak period violations enforced under the provisions set forth in Chapter 15.90, amending Chapters 15.90 and 15.91 of the Seattle Municipal Code, and adopting a new Street Use Permit Fee Schedule.

WHEREAS, the Director of Transportation is responsible for enforcing Title 15, the Street and Sidewalk Use Code; and

WHEREAS, the authority to issue civil citations was granted to the Department of Transportation by Ordinance 120822 and has since proven to be an effective enforcement tool for those particular violations of Title 15 for which inspectors are able to issue civil citations; and

WHEREAS, the Director has identified some additional enforcement responsibilities under Title 15 which are also one-time or short-term violations of the code, and thus it makes sense to enforce those through civil citations rather than the Notice of Violation and civil suit process set forth in Chapter 15.90; and

WHEREAS, the current \$150 fine for first time offenders under the citation provisions has proven to be ineffective in some cases in deterring people from violating the code, the Director of Transportation desires to increase the monetary penalties for first time citations; and

WHEREAS, more than one major transportation project is planned for the City of Seattle in the near future and it is vital that the Director be able to deter persons from using the public right-of-way for non-transit related purposes during peak traffic periods; and

WHEREAS, because the \$500 per day penalty for violations prosecuted pursuant to SMC Chapter 15.90 is insufficient to deter some individuals from using the public right-of-way during peak traffic periods the Director seeks to impose a Peak Period Penalty Enhancement on those violators; and

WHEREAS the City of Seattle Traffic Engineer prohibits work in the public right-of-way on arterial streets during peak hours, but the Department recognizes that such work must be done under certain circumstances; and



1 WHEREAS the existing Street Use Permit Fee Schedule does not contemplate such use of the
2 right-of-way during peak hours, a mobility impact surcharge is now created in order to
3 permit such work when authorized by the City of Seattle Traffic Engineer; and

4 WHEREAS the City of Seattle Traffic Engineer will implement an exception review process to
5 allow those projects which may only be completed by working in the public right-of-way
6 during peak hours; and

7 WHEREAS, an earlier ordinance cited an erroneous section of the Revised Code of Washington
8 for procedures for appellants to appeal the Hearing Examiner's decision on citations,
9 which is the final decision of the City; NOW, THEREFORE,

10 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

11 Section 1. SMC 15.91.002 is amended as follows:

12 A. Violations of the following provisions of Seattle Municipal Code Title 15 shall be
13 enforced under the citation or criminal provisions set forth in this Chapter 15.91 by the Director
14 of Transportation:

15 1. Marquees, Awnings, Canopies, and Decorative Elements (SMC Chapter 15.10);

16 2. Signs, Banners and Street Clocks (SMC Chapter 15.12);

17 3. Newsstands (SMC Chapter 15.14);

18 4. Building Cleaning or Painting (SMC Chapter 15.20);

19 5. Vending (SMC Chapter 15.17);

20 6. Warning Lights and Barricades (SMC Chapter 15.40);

21 7. Debris in Public Places (SMC Chapter 15.46);

22 8. Snow and ice removal (SMC 15.48.010

23 9. Barbed wire or electric fence (SMC 15.48.020)((-));

24 10. Obstruction of utility or traffic facilities prohibited (SMC 15.22.050);

25 11. Removal of earth and debris (SMC 15.22.060);



1 12. Mixing of mortar or concrete (SMC 15.22.070);

2 13. Permit to drive over sidewalk or curb (SMC 15.22.100);

3 14. Barricades and warning devices (SMC 15.44.010).

4
5 B. Any enforcement action or proceeding pursuant to this Chapter 15.91 shall not affect,
6 limit or preclude any previous, pending or subsequent enforcement action or proceeding taken
7 pursuant to Chapter ~~((15.50))~~ 15.90.

8
9 Section 2. Section 15.91.006 of the Seattle Municipal Code is amended as follows:

10 A. First Violation. The first time that a person or entity is found to have violated one of
11 the provisions referenced in Section 15.91.002, after the effective date of the ordinance codified
12 in this chapter, the person or entity shall be subject to a penalty of ~~((One Hundred Fifty Dollars~~
13 ~~(\$150)))~~ Two Hundred Fifty Dollars (\$250).

14
15 Section 3. Section 15.91.012 of the Seattle Municipal Code is amended as follows:

16 G. ~~((Appeal))~~ Final Decision. The Hearing Examiner's decision is the final decision of
17 the City. ~~((Any judicial review must be commenced within thirty (30) days of service of the~~
18 ~~Hearing Examiner's decision in accordance with RCW 34.05.542.))~~

19
20
21 Section 4. Section 15.90.018 of the Seattle Municipal Code is amended as follows:
22 **SMC 15.90.018 civil penalty.**

23 A. In addition to any other sanction or remedial procedure which may be available, any
24 person or entity violating or failing to comply with any of the provisions of Title 15 ~~((and who is~~
25 ~~identified in an order of the Director))~~ shall be subject to a cumulative penalty of up to Five-
26 hundred Dollars (\$500) per day for each violation from the date the violation occurs or begins
27

1 until compliance is achieved. ((set for compliance until the person complies with the
2 requirements of the code.)) The City shall also be entitled to recovery of its enforcement costs,
3 including, but not limited to, staff time, administrative expenses and fees, and costs and
4 attorneys' fees.

5
6 B. The penalty imposed by this section shall be collected by civil action brought in the
7 name of the City. The Director shall notify the City Attorney in writing of the name of any person
8 subject to the penalty, and the City Attorney shall, with the assistance of the Director, take
9 appropriate action to collect the penalty. In any civil action for a penalty, the City has the burden
10 of prov((id))ing by a preponderance of the evidence that a violation exists or existed; the issuance
11 of the notice of violation or of an order following a review by the Director is not itself evidence
12 that a violation exists.
13

14
15 Section 5. Seattle Municipal Code Subsection 15.90.018(C) is repealed, and a new
16 Subsection 15.90.018(C) is adopted as follows:
17

18 C. Peak Period Penalty Enhancement. In addition to the cumulative \$500 penalty per day
19 for each violation set forth in Subsection A, each person or entity that violates any of the
20 provisions enforced by this Chapter during a Peak Period shall be subject to an additional penalty
21 of \$1,000 per day for each violation. The failure to take immediate action to correct the violation
22 as directed by the Director shall constitute a separate violation.
23
24

25 Section 6. Seattle Municipal Code Section 15.02.046 is amended as follows:
26 **SMC 15.02.046 Definitions N through S.**
27
28

1 A. "Newsstand" means any stand, box, structure, rack or other device which is designed
2 or used for the sale and/or distribution of newspapers, periodicals, magazines, or other
3 publications, or any combination thereof.
4

5 B. "Park drive or boulevard" means a public place under the jurisdiction of the
6 Department of Parks and Recreation described in Appendix I or shown in the map in Appendix II
7 or administered by the Superintendent related to a park.
8

9 C. "Peak Period" means the peak traffic periods as defined in the current edition of the
10 City of Seattle Traffic Control Manual for In-Street Work.

11 D. ~~((C.))~~ "Public place" means and includes streets, avenues, ways, boulevards, drives,
12 places, alleys, sidewalks, and planting (parking) strips, squares, triangles and right-of-way for
13 public use and the space above or beneath its surface, whether or not opened or improved.
14

15 E. ~~((D.))~~ "Publisher" means the owner or distributor of a newspaper or other
16 publication distributed through a newsstand.

17 F. ~~((E.))~~ "RCW" is an abbreviation for Revised Code of Washington.

18 G. "Shoreline street ends" means the land portions of those street segments that provide
19 the public with visual or physical access to a body of water and its shoreline, or could provide
20 such access if improved, that are listed on Exhibit A to Resolution 29370, a resolution adopting
21 policies to guide the development of public access improvements to shoreline street ends.
22

23 H. ~~((F.))~~ "Sidewalk cafe" means a portion of sidewalk area in which are placed tables and
24 chairs for the use of patrons while consuming food and/or beverages, including alcoholic
25 beverages, served by a cafe, restaurant or tavern located on adjacent property.
26
27
28



Section 8. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 19th day of September, 2005, and signed by me in open session in authentication of its passage this 19th day of September, 2005.



President _____ of the City Council

Approved by me this 22nd day of September, 2005.



Gregory J. Nickels, Mayor

Filed by me this 23rd day of September, 2005.



City Clerk

(Seal)

Attachment: Exhibit A. Revised Street Use Permit Fee Schedule



City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

August 9, 2005

Honorable Jan Drago
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Drago:

I am transmitting the attached proposed Council Bill that modifies enforcement authority for the Seattle Department of Transportation (SDOT) to help SDOT maintain traffic flow and mobility through the city during construction activities associated with planned major transportation projects. This proposed Council Bill adds civil citation authority for certain violations of Seattle Municipal Code Title 15 and creates a peak period penalty to the existing Notice of Violation authority. This will allow SDOT to impose penalties of up to \$1,000 per day for violation of Street Use permit conditions in the public right-of-way during peak hours. The Council Bill also amends and updates the the Street Use Permit Fee Schedule to address impacts on City streets by those who obtain permission from the City Traffic Engineer to perform work in the right-of-way.

SDOT currently has authority to issue civil citations or Notices of Violation for unauthorized use of the public right-of-way. However, the current \$150 penalty amount is insufficient to deter users from unauthorized activity. SDOT's experience demonstrates that this nominal amount is not deterring contractors who typically have heavy equipment, work crews, concrete delivery, or other major investments in a project. Such unauthorized activity not only creates traffic problems but further weakens SDOT's ability to properly coordinate such major construction activity throughout the City.

In anticipation of Seattle's planned major transportation projects it will be critical for SDOT inspectors to clear obstructions in the right-of-way, maintain traffic flow and coordinate construction activity. The enforcement tools authorized by this Bill will help SDOT achieve those goals and keep Seattle moving. Thank you for your consideration of this legislation. Should you have questions, please contact Richard Richmire at 684-0391.

Sincerely,



GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, Email: mayors.office@seattle.gov

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STREET USE PERMIT FEE SCHEDULE

Effective January 1, 2005

		2004 - 2005 Rate Structure					
ROW Category	Permit Types	Issuance Base Fee	Map Surcharge	Square Foot (annual) Occupation Fee	Square Foot (short term) Use Fee	Hourly Fee	Requirement
Activities that use the public ROW that involve little to no mobility blockage	23 - cornices, architectural features	\$135	\$30	N/A	None	Issuance base fee includes 1 hr for issuance & inspection: \$150/hr for services in excess of first hour	Minimum \$450 deposit required. Field report may be required.
	25 - driveways						
	26 - concrete driveways "Curb Cut"						
	28 - water service lines less than 2" diameter						
	29 - fences and non-structural walls						
	34 - grade and rock (temporary)						
	35 - clear and grub street and alley						
	37 - new sidewalk with existing curb						
	38 - Surfacing planting strip, including required landscaping						
	43 - tree removal when blocking street						
	47 - cross curb & walk with equipment						
	54A - misc private temporary uses up to 4 hours						
Activities in non-arterial areas that use the public ROW and that block mobility	3AL - street barricading (temporary private use) on access streets (eg: grand openings, rallies)	\$135	\$30	N/A	mo 1=no fee, mo2&3=\$.10/sf/10d mo4&5=\$.20/sf/10d mo6&7=\$.40/sf/10d mo8&9=\$.80/sf/10d mo10+=\$1.20/sf/10d in mo 10+ up to \$.20/sf/10day credit for mobility mitigation	Issuance base fee includes 1 hr for issuance & inspection: \$150/hr for services in excess of first hour	Minimum \$450 deposit required
	13L - temporary placement of materials not for construction, and for bus staging on access streets						None or deposit if scope warrants
	15L - installation of public art on access streets						Deposit required based on estimate + 22B if applicable
	22L - shoring installation and removal on access streets						Deposit required based on estimate
	22AL - excavation on access streets						Minimum \$450 deposit required (if permit is for more than one month)
	31L - construction use on access streets						Minimum \$450 deposit required (if permit is for more than one month)
	31BL - single family residential construction/debris dumpster on access streets						None or deposit if scope warrants
	31CL - low income housing on any street						Minimum \$750 deposit, (field report required)
	40L - roadway paving on access streets						None or deposit if scope warrants
	41L - bus shelter installation on access streets						Minimum \$450 deposit required; daily rate; apply surcharge only to 1st permit at site, (insurance required)
	44L - mobile crane, manlift, boom truck, etc on access streets						
Activities in non-arterial areas that use the public ROW and that block mobility (continued)	45L - street improvement [public improvements by private development] on access streets	\$135	\$30	N/A	mo 1=no fee, mo2&3=\$.10/sf/10d mo4&5=\$.20/sf/10d mo6&7=\$.40/sf/10d mo8&9=\$.80/sf/10d mo10+=\$1.20/sf/10d in mo 10+ up to \$.20/sf/10day credit for mobility mitigation	Issuance base fee includes 1 hr for issuance & inspection: \$150/hr for services in excess of first hour	Minimum \$450 deposit required (bond required)
	46L - waterproofing or similar surfacing of concrete walks over areaways on access streets						Minimum \$450 deposit required
	49L - street opening for miscellaneous purposes on access streets						
	50L - scaffold, swing staging, scissor lift on access streets						
	51L, (51AL, 51BL, 51CL, 51DL, 51EL)- utility system construction on access streets						



STREET USE PERMIT FEE SCHEDULE

Effective January 1, 2005

Activities on arterials that use the public ROW and that block mobility	13H - temporary placement of materials not for construction; and for bus stalling on arterials	\$135	\$30	N/A	mo1=\$.10/sf/10d mo2=\$.20/sf/10d mo3=\$.40/sf/10d mo4=\$.80/sf/10d mo5=\$1.20/2f/10d in mo5+ up to \$.20/sf/10 day credit for mobility mitigation	Issuance base fee includes 1 hr for issuance & inspection: \$150/hr for services in excess of first hour	Minimum \$450 deposit required
	15H - installation of public art on arterials						None (or deposit if scope warrants)
	22H - shoring installation and removal on arterials						Minimum \$450 deposit required (+ 22BH if applicable)
	22AH - excavation on arterials						Deposit required based on estimate.
	31H - construction use on arterials						Minimum \$450 deposit required
	40H - roadway paving on arterials						\$750/hr (minimum) deposit required (field report required)
	41H - bus shelter installation on arterials						None or deposit if scope warrants
	44H - mobile crane, manlift, boom truck, etc on arterials						Minimum \$450 deposit required. Insurance required
	45H - street improvement [public improvements by private development] on arterials						Deposit required based on estimate, bond required
	46H - waterproofing or similar surface of concrete walks over areaways on arterials						Minimum \$450 deposit required
	49H - street opening for miscellaneous purposes on arterials						
	50H - scaffold, swing staging, scissor lift on arterials						
Activities that have value to general citizenry	1 - beautification	None	None	N/A	None	Issuance base fee includes 1 hr for issuance & inspection: \$150/hr for services in excess of first hour	Minimum \$450 deposit. (Field report required.)
	1A - tree pruning						None or deposit if scope warrants
	5A - clocks on public Historic Landmark places						
	54 - miscellaneous uses for use of public per SMC 15.04.100						
	55 - sidewalk repair						<50 sq ft = no deposit; 51-100 sq ft = \$150 deposit; 101-500 sq ft = \$450 deposit; if in high-density area or 501+sq ft = \$900 deposit (Field report may be required.)
Activities that will occur over more than one year	2 - small directional signs (1st yr)	\$135	\$30	None	N/A	Issuance base fee includes 1 hr for issuance & inspection: \$150/hr for services in excess of first hour	None
	2(R) - small directional signs (renewal)	\$97	\$0	None			None
	3 - street barricading for private use (1st yr)	\$135	\$30	None			None
	3(R) - street barricading for private use (renewal)	\$97	\$0	None			None
	5 - clocks (1st yr)	\$135	\$30	None			None
	5(R) - clocks (renewal)	\$97	\$0	None			None
	6 - signs, flags, etc extend over ROW (1st yr)	\$135	\$30	None			None
	6(R) - signs, flags, etc extend over ROW (renewal)	\$97	\$0	None			None
	7B - ramp primary access over underwater street (1st yr)	\$135	\$30	None			None
	7(R) ramp primary access underwater street (renewal)	\$97	\$0	None			None
	8 - ventilating ducts (1st yr)	\$135	\$30	None			None
	8(R) - ventilating ducts (renewals)	\$97	\$0	None			None
	9 - underground vaults (1st yr)	\$135	\$30	None			None
	9(R) - underground vaults (renewals)	\$97	\$0	None			None
	14 - misc renewable uses (1st yr)	\$135	\$30	None			Insurance required
	14(R) - misc renewable uses (renewals)	\$97	\$0	None			Insurance required
	14A - vending carts (1st yr)	\$135	\$30	None			Insurance required
	14A(R) - vending carts (renewal)	\$97	\$0	None			Insurance required
	14B - tables & chairs [max 4] (1st yr)	\$135	\$30	None			Insurance required
	14B(R) - tables & chairs [max 4] (renewal)	\$97	\$0	None			Insurance required
	16A - inactive areaways prior 1/1/95 (1st yr)	\$135	\$30	None			Insurance required
	16A(R) - inactive areaways prior 1/1/95 (renewals)	\$97	\$0	None			Insurance required
	17 - sidewalks, elevators, doors (1st yr)	\$135	\$30	None			Insurance required
	17(R) - sidewalks, elevators, doors (renewals)	\$97	\$0	None			Insurance required
	21A - non public utilities (1st yr)	\$135	\$30	None			None
	21A(R) - non public utilities (renewal)	\$97	\$0	None			None
	21B - underground storage tanks (1st yr)	\$135	\$30	None			None
	21B(R) - underground storage tanks (renewal)	\$97	\$0	None			None
	27A - stanchions (1st yr)	\$135	\$30	None			Indemnity agreement
	27A(R) - stanchions (renewal)	\$97	\$0	None			Indemnity agreement

STREET USE PERMIT FEE SCHEDULE

Effective January 1, 2005

	29A - structural retaining walls/rockeries (1st yr)	\$135	\$30	None			Indemnity agreement; \$450 deposit required
	29A(R) - structural retaining walls/rockeries (renewal)	\$97	\$0	None			Indemnity agreement; \$450 deposit required
	33 - contractor's trucks/equip per vehicle (1st yr)	\$135	\$30	None			Insurance required
	33(R) - contractor's trucks/equip per vehicle (renewal)	\$97	\$0	None			Insurance required
	48 - building maintenance over ROW [per bldg] (1st yr)	\$135	\$30	None			None
	48(R) - building maintenance over ROW [per bldg] (renewal)	\$97	\$0	None			None
	52 - street decorations (1st yr)	\$135	\$30	None			Insurance required
	52(R) - street decorations (renewals)	\$97	\$0	None			Insurance required
Occupation of ROW street	2A - Fixed Ground Signs (1st yr)	\$135	\$30	\$590/yr	N/A	Issuance base fee includes 1 hr for issuance & inspection; \$150/hr for services in excess of first hour	None
	2A(R) - Fixed Ground Signs (renewals)	\$97	\$0	\$590/yr			None
	7 - structures & overhangs (1st yr)	\$135	\$30	\$51/sf/yr			Indemnity agreement
	7(R) - structures & overhangs (renewal)	\$97	\$0	\$51/sf/yr			Indemnity agreement
	12 - material storage (1st yr)	\$135	\$30	\$51/sf/yr			None
	12(R) - material storage (renewals)	\$97	\$0	\$51/sf/yr			None
	16 - areaways exist prior to 1/1/95 (1st yr)	\$135	\$30	\$51/sf/yr			Insurance reqd; structural inspection at \$300 max
	16(R) - areaways exist prior to 1/1/95 (renewal)	\$97	\$0	\$51/sf/yr			Insurance required
	18 - sidewalk cafes (1st yr)	\$135	\$30	\$1.56/sf/yr			Insurance required
	18(R) - sidewalk cafes (renewals)	\$97	\$0	\$1.56/sf/yr			Insurance required
	18A - merchandise on sidewalks (1st yr)	\$135	\$30	\$1.56/sf/yr			Insurance required
	18A(R) - merchandise on sidewalks (renewal)	\$97	\$0	\$1.56/sf/yr			Insurance required
	21 - underground storage in street (1st yr)	\$135	\$30	\$590/yr			None
	21(R) - underground storage in street (renewals)	\$97	\$0	\$590/yr			None
	22BH - shoring unremoved (must be removed to a point 4 ft below finished grade)	\$135	\$30	\$1011/pile			\$1000/piling left in ROW if >21" from property line
	27 - awnings, marquees & canopies (1st yr)- [plus 27A if stanchions]	\$135	\$30	\$51/sf/yr			\$1616 maximum
Occupation of underwater street	7A - structures & overhangs underwater streets (1st yr)	\$135	\$30	\$14/sf/mo	N/A	Issuance base fee includes 1 hr for issuance & inspection; \$150/hr for services in excess of first hour	Insurance required
	7A(R) - structures & overhangs underwater streets (renewals)	\$97	\$0	\$14/sf/mo			Insurance required
	12A - moorage not covered elsewhere (1st yr)	\$135	\$30	\$14/sf/mo			None
	12A(R) - moorage not covered elsewhere (renewals)	\$97	\$0	\$14/sf/mo			None
	WW100 - installations & overhangs state waterways (1st yr)	\$135	\$30	\$14/sf/mo			None
	WW100(R) - installations & overhangs state waterway (renew)	\$97	\$0	\$14/sf/mo			None
	WW150 - non-profit org water safety for youth (1st yr)	\$135	\$30	None			None
	WW150(R) - non-profit org water safety for youth (renewal)	\$97	\$0	None			None
	WW200 - moorage in state waterways (1st yr)	\$135	\$30	\$14/sf/mo			None
	WW200(R) - moorage in state waterways (renewal)	\$97	\$0	\$14/sf/mo			None
	WW250 - temporary moorage or other uses of State waterways	\$135	\$30	\$14/sf/mo			None
Per ordinance or council action	11 - shoreline street ends [land portion]	Fees determined by ordinance @ sq ft of use * demand factor 4-factor * 4-and-land value per sq ft * annualized rate (10%)			N/A	Issuance base fee includes 1 hr for issuance & inspection; \$150/hr for services in excess of first hour	Indemnity agreement
	14C - 1st amendment vending	\$40	None	\$35/mo	N/A	None	Insurance required
	14D - stadium and Exhibition Center vending [Apr - Sept]	None	None	\$121.50/mo			Insurance required
	14E - stadium and Exhibition Center vending [Oct - Mar]	None	None	\$18/game-month			Insurance required
	16B - areaways built after 1/1/95	based upon appraisal					Authorized by ordinance
	58 - sign removal	\$78 per sign or poster	(N/A)				Authorized by ordinance
	56 - legal document preparation	None	None	(N/A)		\$150/hr	None or deposit if scope warrants
	57 - impound fee	City cost plus 15%					Minimum \$97
	59 - mobility impact fee	\$360					Daily fee per road lane or sidewalk of City block (300') or partial City block obstructed on arterial streets during peak hours if peak period exception granted
	(Review, investigation, design guidance, inspection and other hourly services not included in base permit fee)	(None)	(None)	(N/A)	(N/A)	(\$150/hr)	(May require deposit)



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Seattle Department of Transportation	Richard Richmire/4-0391	Jennifer Devore/5-1328

Legislation Title: AN ORDINANCE relating to enforcement of Seattle Municipal Code Title 15, the Street and Sidewalk Use Code, expanding the list of violations of Title 15 to be enforced under the citation or criminal provisions set forth in Chapter 15.91, increasing penalties for the first citation, enhancing the penalty for peak period violations enforced under the provisions set forth in Chapter 15.90, amending Chapters 15.90 and 15.91 of the Seattle Municipal Code, and adopting a new Street Use Permit Fee Schedule.

• **Summary of the Legislation:**

This ordinance adds civil citation authority to several items from SMC Title 15, the Street Use code, which are generally one-time or short-term events that are appropriately issued a civil citation. Violations of the following sections of Title 15 are added to the existing list of citable offenses:

- Obstruction of utility or traffic facilities (SMC 15.22.050);
- Removal of earth and debris (SMC 15.22.060);
- Mixing of mortar or concrete (SMC 15.22.070);
- Permit to drive over sidewalk or curb (SMC 15.22.100);
- Barricades and warning devices (SMC 15.44.010).

Additionally, as an increased deterrent to violating Title 15, civil citation penalties for first time violations are increased from \$150 to \$250, and a peak period penalty enhancement of up to \$1000 per day is added to the existing Notice of Violation authority. Finally, in recognition of the fact that the nature of some work will require a small number of permittees to use the right-of-way during peak periods, the Street Use Permit Fee Schedule is amended to include a 'mobility impact surcharge' for those users granted permission to work in the right-of-way on arterial streets during peak hours.

- **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

Ordinance 120822 granted civil citation authority for a limited number of items from Title 15, primarily short-term violations of the code. The Department has identified other sections of Title 15 that are frequently violated, and are short-term in duration. The ability to issue civil citations for these violations would allow SDOT inspectors to use their inspection time more efficiently and resolve these problems in the public right-of-way quickly, with a less cumbersome enforcement process that has previously been available, such as contacting the responsible party in writing and demanding that these acts are not repeated in the future.

Additionally, in anticipation of the many major transportation projects planned for the near future, the Department seeks penalties for those in non-compliance with Street Use permit conditions during the peak hours when obstructing the right-of-way will result in negative impacts to traffic flow and mobility.

- Please check one of the following:

☐ **This legislation does not have any financial implications.** (Stop here and delete the remainder of this document prior to saving and printing.)

☒ **This legislation has financial implications.** (Please complete all relevant sections that follow.)

Appropriations: This table should reflect appropriations that are a direct result of this legislation. In the event that the project/ programs associated with this ordinance have appropriations that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below.

Fund Name and Number	Department	Budget Control Level*	2005 Appropriation	2006 Anticipated Appropriation
N/A	N/A	N/A	N/A	N/A
TOTAL				

*See budget book to obtain the appropriate Budget Control Level for your department.

Notes: Anticipated Revenue/Reimbursement: Resulting From This Legislation: This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below the table.

Fund Name and Number	Department	Revenue Source	2005 Revenue	2006 Revenue
Transportation Operating Fund (10310)	Seattle Department of Transportation	442490, Other Protective Inspection FE	\$2,415	\$9,660
TOTAL			\$2,415	\$9,660

Notes: 2006 revenue amounts are based on estimates of collecting six mobility impact surcharges per year (one every two months); six Notices of Violation for peak hour violations (one every two months); and six civil citations (one every two months). The 2005 revenue amount is derived as one-quarter of the 2006 amount, since the ordinance will be in effect for the fourth quarter of 2005 only.

Total Regular Positions Created Or Abrogated Through This Legislation, Including FTE

Impact: This table should only reflect the actual number of positions created by this legislation. In the event that positions have been, or will be, created as a result of previous or future legislation or budget actions, please provide details in the Notes section below the table.

Position Title and Department*	Fund Name	Fund Number	Part-Time/ Full Time	2005 Positions	2005 FTE	2006 Positions**	2006 FTE**
N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
TOTAL							

* List each position separately

** 2006 positions and FTE are total 2006 position changes resulting from this legislation, not incremental changes. Therefore, under 2006, please be sure to include any continuing positions from 2005

Notes:

- **Do positions sunset in the future?** (If yes, identify sunset date):

Spending/Cash Flow: This table should be completed only in those cases where part or all of the funds authorized by this legislation will be spent in a different year than when they were appropriated (e.g., as in the case of certain grants and capital projects). Details surrounding spending that will occur in future years should be provided in the Notes section below the table.

Fund Name and Number	Department	Budget Control Level*	2005 Expenditures	2006 Anticipated Expenditures
N/A	N/A	N/A	N/A	N/A
TOTAL				

* See budget book to obtain the appropriate Budget Control Level for your department.

Notes:

- **What is the financial cost of not implementing the legislation?** (Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs if the legislation is not implemented.)

None

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** (Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)

None

- **Is the legislation subject to public hearing requirements:** (If yes, what public hearings have been held to date, and/or what plans are in place to hold a public hearing(s) in the future.)

No

- **Other Issues** (including long-term implications of the legislation):

Please list attachments to the fiscal note below:

STATE OF WASHINGTON – KING COUNTY

--SS.

190494
CITY OF SEATTLE, CLERKS OFFICE

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

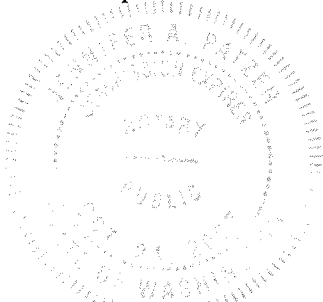
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:121925 ORD IN FULL

was published on

10/03/05

The amount of the fee charged for the foregoing publication is the sum of \$ 384.25, which amount has been paid in full.



Affidavit of Publication

A handwritten signature, likely of the subscriber, written in dark ink.

Subscribed and sworn to before me on

10/03/05

A handwritten signature of the notary public, Jennifer A. Patzer, written in dark ink.

Notary public for the State of Washington,
residing in Seattle

City of Seattle

ORDINANCE 121925

AN ORDINANCE relating to enforcement of Seattle Municipal Code Title 15, the Street and Sidewalk Use Code, expanding the list of violations of Title 15 to be enforced under the citation or criminal provisions set forth in Chapter 15.91, increasing penalties for the first citation, enhancing the penalty for peak period violations enforced under the provisions set forth in Chapter 15.90, amending Chapters 15.90 and 15.91 of the Seattle Municipal Code, and adopting a new Street Use Permit Fee Schedule.

WHEREAS, the Director of Transportation is responsible for enforcing Title 15, the Street and Sidewalk Use Code; and

WHEREAS, the authority to issue civil citations was granted to the Department of Transportation by Ordinance 120822 and has since proven to be an effective enforcement tool for those particular violations of Title 15 for which inspectors are able to issue civil citations; and

WHEREAS, the Director has identified some additional enforcement responsibilities under Title 15 which are also one-time or short-term violations of the code, and thus it makes sense to enforce those through civil citations rather than the Notice of Violation and civil suit process set forth in Chapter 15.90; and

WHEREAS, the current \$150 fine for first time offenders under the citation provisions has proven to be ineffective in some cases in deterring people from violating the code, the Director of Transportation desires to increase the monetary penalties for first time citations; and

WHEREAS, more than one major transportation project is planned for the City of Seattle in the near future and it is vital that the Director be able to deter persons from using the public right-of-way for non-transit related purposes during peak traffic periods; and

WHEREAS, because the \$500 per day penalty for violations prosecuted pursuant to SMC Chapter 15.90 is insufficient to deter some individuals from using the public right-of-way during peak traffic periods the Director seeks to impose a Peak Period Penalty Enhancement on those violators; and

WHEREAS the City of Seattle Traffic Engineer prohibits work in the public right-of-way on arterial streets during peak hours, but the Department recognizes that such work must be done under certain circumstances; and

WHEREAS the existing Street Use Permit Fee Schedule does not contemplate such use of the right-of-way during peak hours, a mobility impact surcharge is now created in order to permit such work when authorized by the City of Seattle Traffic Engineer; and

State of Washington, King County

WHEREAS the City of Seattle Traffic Engineer will implement an exception review process to allow those projects which may only be completed by working in the public right-of-way during peak hours; and

WHEREAS, an earlier ordinance cited an erroneous section of the Revised Code of Washington for procedures for appellants to appeal the Hearing Examiner's decision on citations, which is the final decision of the City; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. SMC 15.91.002 is amended as follows:

A. Violations of the following provisions of Seattle Municipal Code Title 15 shall be enforced under the citation or criminal provisions set forth in this Chapter 15.91 by the Director of Transportation:

1. Marquees, Awnings, Canopies, and Decorative Elements (SMC Chapter 15.10);
2. Signs, Banners and Street Clocks (SMC Chapter 15.12);
3. Newsstands (SMC Chapter 15.14);
4. Building Cleaning or Painting (SMC Chapter 15.20);
5. Vending (SMC Chapter 15.17);
6. Warning Lights and Barricades (SMC Chapter 15.40);
7. Debris in Public Places (SMC Chapter 15.46);
8. Snow and ice removal (SMC 15.48.010)
9. Barbed wire or electric fence (SMC 15.48.020)(C);
10. Obstruction of utility or traffic facilities prohibited (SMC 15.22.050);
11. Removal of earth and debris (SMC 15.22.060);
12. Mixing of mortar or concrete (SMC 15.22.070);
13. Permit to drive over sidewalk or curb (SMC 15.22.100);
14. Barricades and warning devices (SMC 15.44.010).

B. Any enforcement action or proceeding pursuant to this Chapter 15.91 shall not affect, limit or preclude any previous, pending or subsequent enforcement action or proceeding taken pursuant to Chapter ((15.50)) 15.90.

Section 2. Section 15.91.006 of the Seattle Municipal Code is amended as follows:

A. First Violation. The first time that a person or entity is found to have violated one of the provisions referenced in Section 15.91.002, after the effective date of the ordinance codified in this chapter, the person or entity shall be subject to a penalty of ((One Hundred Fifty Dollars (\$150))) Two Hundred Fifty Dollars (\$250).

Section 3. Section 15.91.012 of the Seattle Municipal Code is amended as follows:

G. ((Appeal)) **Final Decision.** The Hearing Examiner's decision is the final decision of the City. ((Any judicial review must be commenced within thirty (30) days of service of the Hearing Examiner's decision in accordance with RCW 54.06.542.))

Section 4. Section 15.90.018 of the Seattle Municipal Code is amended as follows:

SMC 15.90.018 civil penalty.

A. In addition to any other sanction or remedial procedure which may be available, any person or entity violating or failing to comply with any of the provisions of Title 15 (and who is identified in an order of the Director) shall be subject to a cumulative penalty of up to Five-hundred Dollars (\$500) per day for each violation from the date the violation occurs or begins until compliance is achieved. ((set for compliance until the person complies with the requirements of the code.)) The City shall also be entitled to recovery of its enforcement costs, including, but not limited to, staff time, administrative expenses and fees, and costs and attorneys' fees.

B. The penalty imposed by this section shall be collected by civil action brought in the name of the City. The Director shall notify the City Attorney in writing of the name of any person subject to the penalty, and the City Attorney shall, with the assistance of the Director, take appropriate action to collect the penalty. In any civil action for a penalty, the City has the burden of proving (1) by a preponderance of the evidence that a violation exists or existed; the issuance of the notice of violation or of an order following a review by the Director is not itself evidence that a violation exists.

Section 5. Seattle Municipal Code Subsection 15.90.018(C) is repealed, and a new Subsection 15.90.018(C) is adopted as follows:

C. Peak Period Penalty Enhancement. In addition to the cumulative \$500 penalty per day for each violation set forth in Subsection A, each person or entity that violates any of the provisions enforced by this Chapter during a Peak Period shall be subject to an additional penalty of \$1,000 per day for each violation. The failure to take immediate action to correct the violation as directed by the Director shall constitute a separate violation.

Section 6. Seattle Municipal Code Section 15.02.046 is amended as follows:

SMC 15.02.046 Definitions N through S.

A. "Newstand" means any stand, box, structure, rack or other device which is designed or used for the sale and/or distribution of newspapers, periodicals, magazines, or other publications, or any combination thereof.

B. "Park drive or boulevard" means a public place under the jurisdiction of the Department of Parks and Recreation described in Appendix I or shown in the map in Appendix II or administered by the Superintendent related to a park.

C. "Peak Period" means the peak traffic periods as defined in the current edition of the City of Seattle Traffic Control Manual for In-Street Work.

D. ((G-)) "Public place" means and includes streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, and planting (parking) strips, squares, triangles and right-of-way for public use and the space above or beneath its surface, whether or not opened or improved.

E. ((D-)) "Publisher" means the owner or distributor of a newspaper or other

publication distributed through a newsstand.

F. ((E-)) "RCW" is an abbreviation for Revised Code of Washington.

G. "Shoreline street ends" means the land portions of those street segments that provide the public with visual or physical access to a body of water and its shoreline, or could provide such access if improved, that are listed on Exhibit A to Resolution 29370, a resolution adopting policies to guide the development of public access improvements to shoreline street ends.

H. ((F-)) "Sidewalk cafe" means a portion of sidewalk area in which are placed tables and chairs for the use of patrons while consuming food and/or beverages, including alcoholic beverages, served by a cafe, restaurant or tavern located on adjacent property.

I. ((G-)) "Sign" means any medium, including its structure and component parts, which is used or intended to be used out of doors to attract attention to the subject matter for advertising, identification or informative purposes.

J. ((H-)) "SMC" is an abbreviation for Seattle Municipal Code.

K. ((I-)) "Superintendent" or "Superintendent of Parks and Recreation" means the City Superintendent of Parks and Recreation and his or her authorized representatives.

Section 7. The Street Use Fee Permit Schedule authorized by, and attached to, Ordinance 121653 is amended to add a new category and fee as follows:

Permit Type

59 – mobility impact surcharge \$360 per day per road lane or sidewalk of City block (300') or partial City block obstructed on arterial streets during peak hours if peak period exception granted.

A revised Street Use Fee Permit Schedule incorporating these changes is attached as Exhibit A. The Director of Transportation is authorized to collect such fees in accordance with Chapter 15.04 of the Seattle Municipal Code.

Section 8. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 19th day of September, 2005, and signed by me in open session in authentication of its passage this 19th day of September, 2005.

Jan Drago

President of the City Council

Approved by me this 22nd day of September, 2005.

Gregory J. Nickels, Mayor

Filed by me this 23rd day of September, 2005.

(Seal) Judith Pippin

City Clerk

Attachment: Exhibit A. Revised Street Use Permit Fee Schedule

See City Clerk for Attachment

Publication ordered by JUDITH PIPPIN, City Clerk

Date of publication in the Seattle Daily Journal of Commerce, October 3, 2005.

10/3(190494)